

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID R. WRIGHT,	§
	§ No. 175, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0802023870
	§
Plaintiff Below-	§
Appellee.	§

Submitted: April 7, 2011
Decided: May 23, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 23rd day of May 2011, upon consideration of the Superior Court's February 22, 2011 order following remand and the parties' supplemental memoranda, it appears to the Court that:

(1) The defendant-appellant, David R. Wright, filed an appeal from the Superior Court's March 17, 2010 order denying his first motion for postconviction relief pursuant to Superior Court Criminal Rule 61. All of Wright's claims involved alleged ineffective assistance of counsel. The Superior Court did not request Wright's trial and appellate counsel to submit affidavits in response to Wright's claims. Under the circumstances presented, this Court concluded that the record below was insufficient for

appellate review.¹ The matter was remanded to the Superior Court so that an expanded record might be made on Wright's claims of ineffective assistance of counsel.² On the basis of the Superior Court's report following remand and the parties' supplemental memoranda, we conclude that the Superior Court's denial of Wright's postconviction motion must be AFFIRMED.

(2) The record reflects that, in November 2008, Wright was found guilty by a Superior Court jury of Robbery in the First Degree, Kidnapping in the Second Degree, Possession of a Firearm During the Commission of a Felony, Possession of a Deadly Weapon By a Person Prohibited and Wearing a Disguise During the Commission of a Felony. He was sentenced as a habitual offender³ to a total of 74 years of Level V imprisonment. Wright's convictions were affirmed by this Court on direct appeal.⁴

(3) In his appeal from the Superior Court's denial of his postconviction motion, Wright claimed that a) his trial counsel improperly failed to move to suppress an identification card found during an illegal search of his van, improperly failed to object to the admission of incriminating messages on two cell phones, and improperly failed to object to the search of a camper; and b) his appellate counsel improperly failed to

¹ *Wright v. State*, Del. Supr., No. 175, 2010, Ridgely, J. (Oct. 13, 2010).

² *Id.*; Super. Ct. Crim. R. 61(g)(2); *Horne v. State*, 887 A.2d 973, 974-75 (Del. 2005).

³ Del. Code Ann. tit. 11, §4214(a).

⁴ *Wright v. State*, 980 A.2d 372 (Del. 2009).

assert these underlying claims on direct appeal. On October 13, 2010, the Court remanded this matter to the Superior Court for expansion of the record.

(4) On February 22, 2011, the Superior Court issued its report following remand. In the report, the Superior Court, following a review of the affidavits of Wright's trial and appellate counsel, as well as the parties' supplemental submissions, again concluded that Wright's claims were without merit.⁵

(5) We have carefully reviewed the Superior Court's February 22, 2011 decision as well as the parties' supplemental memoranda filed in this Court. We agree with the Superior Court that Wright's claims fail under the *Strickland* standard. We further conclude that the judgment of the Superior Court should be affirmed on the basis of its well-reasoned decision dated February 22, 2011.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:
/s/ Henry duPont Ridgely
Justice

⁵ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984) (in order to support a claim that counsel provided ineffective assistance, the defendant must demonstrate that, but for counsel's professional errors, there is a reasonable probability that the outcome of the proceedings would have been different).